

REMARKS

I. Status of the Claims

Claims 1-17, 20-28, 30-32, 34-37, 39-41, 43, 44, 46-51, 53, 54 and 57 are pending. Claims 12-17 and 57 are allowed. Claim 43 was indicated in the Action to recite allowable subject matter; this claim has been rewritten in independent form, with all of the recitations of Claim 30 and 39 (from which it formerly depended) included, so it should also now be allowable.

Claims 1-3, 7, 22, 23, 26-28, 30, 31, 34, 37, 39, 40, 44, 50, 51 and 53 stand rejected under Section 102(e) based on U.S. Patent No. 6,328,567 to Morris et al (Morris). Claims 1-3, 5-7, 20-24, 26-28, 30, 31, 34-37, 39, 40, 41, 44, 46-51, 53 and 54 stand rejected under Section 103(a) based on Morris. Claims 4, 25 and 32 stand rejected under Section 103(a) based on Morris in view of U.S. Patent No. 5,967,775 to Shahid et al (Shahid). Claims 7-11 stand rejected under Section 103(a) based on Morris in view of U.S. Patent No. 6,206,691 to Lehmann et al. (Lehmann). These rejections are addressed below.

II. Section 102(e) Rejections

The Action states that Morris anticipates Claims 1-3, 7, 22, 23, 26-28, 30, 31, 34, 37, 39, 40, 44, 50, 51 and 53. The Action characterizes Morris as disclosing:

a system comprising a digital camera for taking colored images, means for relaying the images, means for analyzing the color values of the images, and means for converting the color values into parameters from which the original color may be reconstituted.

The Action at page 2 (citations omitted). The Action then states:

[i]n regard to the "single gray reference" limitation, Morris et al discloses the use of a single "A1" dental shade tab 109 which is later described as "a light tan color." First in regard to the "single" limitation, it is noted that the applicant uses the open term

"comprising" in the claims which indicates that the system may include other elements other than those listed (e.g. black and white indicators). Applicant does not address this issue in his remarks.

Id. at pages 2-3 (citations omitted).

In response, Applicants disagree with the finding in the Action that the term "single grey reference" somehow encompasses the possibility of including other color indicators (such as black or white indicators, as the Action suggests), simply because the overall transitional term of the claim is "comprising." Nevertheless, Applicants hereby state that the intention of the claim language is to convey to those of skill in this art that the system recited in the claim includes only one reference color indicator, and that the sole reference color indicator is a grey reference color indicator. The claims at issue are not intended to encompass (and, Applicants submit, do not encompass) systems with additional reference color indicators, as suggested in the Action.

It is clear from the Action that the Morris system employs multiple reference color indicators. As such, it does not employ a "single grey reference color indicator" as recited in Claims 1, 28, 30 and 44 and, therefore, cannot anticipate any of these claims or claims depending therefrom. Accordingly, Applicants respectfully request that the rejections under Section 102(e) be withdrawn.

III. Rejections under Section 103(a)

In rejecting Claims 1-3, 5-7, 20-24, 26-28, 30, 31, 34-37, 39, 40, 41, 44, 46-51, 53 and 54 under Section 103(a) based on Morris, the Action states:

[i]n regard to the present rejection applicant argues that his system uses only a single color reference whereas the Morris et al system uses three reference colors. It is noted that applicant's arguments are narrower than the claims. The claims use the open term "comprising" which indicates that other elements may be present in the claimed invention including other reference colors.

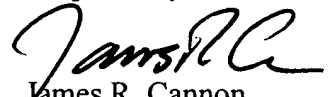
Id. at page 4.

In response, Applicants respectfully direct the Examiner's attention to Section II above, wherein Applicants have addressed this issue: namely, that the claims are intended to cover systems that employ only a single reference color indicator, that the single reference color indicator is grey, and that the claim language is consistent with this intention. As such, Applicants respectfully submit that Morris fails to suggest in any manner a system that employs only a single grey reference color indicator. Applicants also submit that the secondary references of record (Shahid and Lehmann) also fail to disclose or suggest such a system. As such, Applicants respectfully submit that it would not have been obvious to the ordinarily skilled artisan to conceive the recited system based on the cited references, and respectfully request that the rejections under Section 103(a) be withdrawn.

IV. Conclusion

Inasmuch as all of the outstanding issues raised in the Action have been addressed, Applicant respectfully submits that the application is in condition for allowance, and requests that it be passed to allowance and issue.


Respectfully submitted,


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